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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-2-07

SPONSOR Nava LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Volunteer Firefighter Retirement Benefits SB 213

ANALYST Aubel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	.01 Significant*	Recurring	Fire Protection Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

\*See Fiscal Impact

Relates to HB 243  
Conflicts with SJM 6

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Public Employee Retirement Association (PERA)

No Response Received From  
Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 213 would amend Section 10-11A-5 of the Volunteer Firefighters Retirement Plan to double monthly annuity payments for volunteer firefighters, effective July 1, 2007. A member who has attained the age of 55 years and has accrued 25 or more years of service credit would be eligible for a monthly retirement annuity of \$400. A member who has attained the age of 55 years and has accrued 10 or more years, but less than 25 years, of service credit would be eligible for a monthly retirement annuity of \$200. SB 213 would not affect age or service credit requirements.

## **FISCAL IMPLICATIONS**

The Volunteer Firefighters Retirement Plan (“Plan”), passed by the Legislature in 1983, is unlike any other PERA coverage plan because it is not funded based upon contributions from salary. Volunteer firefighters are not salaried employees and their “retirement benefits” do not derive from employment. Rather, the benefits are funded by the Legislature from the fire protection fund (FPF). The required funding to meet the fund’s statutory obligations is an annual appropriation of \$750,000, which is transferred to the volunteer firefighters retirement fund (VFRF). In the past, this amount has been supplemented, as required, to meet unfunded obligations.

According to PERA, doubling the total amount of benefits payable under the Plan would significantly increase the Plan’s liabilities, and would necessarily require an increase in the annual contribution to the fund in order to keep the fund actuarially sound. Because no actuarial study was requested regarding this benefit enhancement, PERA cannot comment with certainty on the unfunded obligations created by SB 213.

Adding to the uncertainty of the possible fiscal impact on fund solvency of SB 213 is the fact that the Plan, as of June 30, 2006, is currently 175 percent funded due to the recent favorable experience of members retiring less frequently than anticipated.

During the 2005 Session, when the fund was 185 percent funded, PERA’s actuaries estimated that a plan enhancement identical to SB 213 would require increasing the current appropriation from the FPF of \$750.0 thousand to an amount ranging from \$2.0 million to \$4.0 million to maintain fund solvency.

## **SIGNIFICANT ISSUES**

During the interim, testimony was presented on the importance of the volunteer firefighters in New Mexico as the first—and only—responders in many rural areas. Their volunteer service was recognized as an essential component of fire suppression in the state.

PERA notes that the essential policy issue is whether increasing retirement benefits without any corresponding increase in funding to the VFRF is contrary to Article XX, Section 22(C) of the New Mexico Constitution, which states in relevant part, “The legislature shall not enact any law that increases the benefits paid by the system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided.”

As previously noted, the range of \$2.0 million to \$4.0 million presented in 2005 by the PERA actuaries for a similar proposal. Although PERA did not provide an explanation for this wide range, testimony presented during the interim suggests that the reason may be the difference between the number of members on PERA’s rolls (approximately 15,000) versus what was presented as the actual membership number (approximately 8,000). Until the actual number is verified and active membership updated for PERA, the actuarially-defined funding to provide the enhanced benefit and still preserve the fund solvency remains uncertain.

### **ADMINISTRATIVE IMPLICATIONS**

PERA does not anticipate a significant administrative impact from HB 213 because it does not affect either the number of volunteer firefighter members or service credit. However, to initiate a membership verification program would require the substantial involvement of all related fire chiefs and require PERA to purge or otherwise update the records.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB 213 relates to House Bill 243, which allows for expanded ability to post prior service credits.

SB 213 conflicts with Senate Joint Memorial 6, which proposes a two-year moratorium on retirement plan enhancements.

### **OTHER SUBSTANTIVE ISSUES**

According to PERA, SB 213 clearly applies to members who retire on or after its effective date, July 1, 2007. However, PERA notes that the applicability of SB 213 to current retirees is not explicitly addressed and suggests that without explicit language to the contrary, it is likely a court would hold that SB 213 only applies to future retirees.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Volunteer firefighter pension benefits will remain at current levels.

### **AMENDMENTS**

PERA suggested that a possible amendment to NMSA 1978, Section 10-11A-3(B) may be required to increase the annual transfer from the fire protection fund to the volunteer firefighters retirement fund in order to be in compliance with Article XX, Section 22(C) of the New Mexico Constitution.

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